

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF THE APPLICATION OF) | ORDER GRANTING |
| NEWPATH HOLDINGS, INC. FOR A) | CERTIFICATE OF |
| CERTIFICATE OF AUTHORITY TO PROVIDE) | AUTHORITY |
| TELECOMMUNICATIONS SERVICES,) | |
| INCLUDING LOCAL EXCHANGE SERVICES, IN) | TC00-006 |
| SOUTH DAKOTA) | |

On February 3, 2000, the Public Utilities Commission (Commission) received an application for a certificate of authority from NewPath Holdings, Inc. (NewPath).

NewPath proposes to offer resold and facilities-based local exchange and interexchange services throughout South Dakota. NewPath does not, however, propose to offer local exchange service in rural carriers' service areas exempt from interconnection obligations as set forth in 47 U.S.C. § 251(c). Initially, NewPath intends to provide data services only. A proposed tariff was filed by NewPath.

On February 10, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of February 25, 2000, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled April 13, 2000, meeting, the Commission considered NewPath's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to a continuous \$25,000 bond, and subject to rural safeguards. Commission Staff further recommended a waiver of ARSD 20:10:24:02(11) and ARSD 20:10:32:03(8) and (15).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 and ARSD 20:10:24:02, 20:10:24:03 and 20:10:32:03. The Commission finds that NewPath has met the legal requirements established for the granting of a certificate of authority. NewPath has, in accordance with SDCL 49-31-3 and 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive subparagraph (11) of ARSD 20:10:24:02 and subparagraphs (8) and (15) of ARSD 20:10:32:03.

The Commission approves NewPath's application for a certificate of authority, subject to a continuous \$25,000 bond, and subject to rural safeguards. The certificate of authority for NewPath shall authorize it to offer local exchange services in South Dakota, except in those areas served by a rural telephone company. In the future, should NewPath choose to provide local exchange services statewide, with respect to rural telephone companies, NewPath will have to come before the Commission in another proceeding before being able to provide local service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation

as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). It is therefore

ORDERED, that NewPath's application for a certificate of authority to provide telecommunications services, including local exchange services, is granted, subject to a continuous \$25,000 surety bond; and it is

FURTHER ORDERED, that NewPath shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize NewPath to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraph (11) of ARSD 20:10:24:02 and subparagraphs (8) and (15) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 19th day of April, 2000.

| CERTIFICATE OF SERVICE | |
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| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon. | |
| By: | <u>Delaine Kalbo</u> |
| Date: | <u>4/19/00</u> |
| (OFFICIAL SEAL) | |

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner